United Nations A/66/267

General Assembly

Distr.: General
5 August 2011

Original: English

Sixty-sixth session
Item 69 (c) of the provisional agenda*
Promotion and protection of human rights: human rights situations and reports of special rapporteurs and representatives

Situation of human rights in Myanmar

Report of the Secretary-General

Summary

The present report is submitted pursuant to paragraph 30 of General Assembly resolution 65/241 and covers the period from 26 August 2010 to 4 August 2011. During the reporting period, the remaining steps of the political road map led by the State Peace and Development Council were implemented, namely, the holding of general elections on 7 November 2010; the convening of the new Parliament in January 2011; and the transfer of power from the Council to the new Government on 30 March 2011. In the process, the Council was officially dissolved. On 13 November 2010, one week after the election, Daw Aung San Suu Kyi was released after seven years of house arrest.

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I. Introduction

1. The present report is submitted pursuant to paragraph 30 of General Assembly resolution 65/241, in which the Assembly requested the Secretary-General to continue to provide his good offices and pursue his discussions on the situation of human rights, the transition to democracy and the national reconciliation process with the Government and people of Myanmar; to offer technical assistance to the Government in that regard; and to report to the Assembly at its sixty-sixth session, as well as to the Human Rights Council, on the progress made in the implementation of the resolution. The report covers the period from 26 August 2010 to 4 August 2011. Separate reports by the Special Rapporteur on the situation of human rights in Myanmar were issued in September 2010 (A/65/368) and in March 2011 (A/HRC/16/59).

2. During the reporting period, the remaining steps of the political road map led by the State Peace and Development Council were implemented, namely, general elections were held on 7 November 2010; the new Parliament was convened in January 2011; and the Council transferred power to the new Government of Myanmar, headed by President Thein Sein, on 30 March 2011. In the process, the Council was officially dissolved and the Chair of the Council, Senior General Than Shwe, and Vice-Chair, Vice-Senior General Maung Aye, officially resigned from their formal positions of power. On 13 November 2010, one week after the election, Daw Aung San Suu Kyi was released after seven years of house arrest.

3. During the same period, I met with then-Prime Minister Thein Sein in Hanoi in October 2010, on the margins of the third ASEAN-United Nations summit, and with former Minister for Foreign Affairs Nyan Win in New York in September 2010, on the margins of the sixty-fifth session of the General Assembly. I also spoke directly with Daw Aung San Suu Kyi immediately following her release. My Special Adviser, Vijay Nambiar, visited Myanmar twice at the invitation of the Government, on 27 and 28 November 2010, following the election and release of Daw Aung San Suu Kyi, and from 11 to 13 May 2011, following the establishment of the new Government.

4. During the reporting period, I remained continuously engaged with interested Member States, including by convening three meetings of the Group of Friends of the Secretary-General on Myanmar, in September and December 2010 and in June 2011. In addition to consultations in capitals, my Special Adviser briefed the President of the General Assembly, the Group of Friends and the Security Council on each of his visits to Myanmar. With the establishment of the new Government, my good offices continued in the context of renewed high-level bilateral engagement between Myanmar and key international stakeholders.

II. Key developments

Elections

5. By September 2010, 42 political parties had been registered with the Union Election Commission to participate in the elections scheduled for 7 November 2010, including 5 out of 10 existing parties that contested the 1990 election. On 14 September 2010, the Commission declared 10 parties "null and void" in

accordance with election laws, including the National League for Democracy and four other existing parties, for not renewing their registration. The Commission issued canvassing guidelines for the remaining 37 parties.

6. Besides two establishment parties — the Union Solidarity and Development Party, headed by Prime Minister Thein Sein, and the National Unity Party — and two main opposition parties — the National Democratic Force and the Democratic Party — the majority of the parties were ethnic-denominated and represented a wide range of constituencies locally and nationally. Within the prescribed time frame, the organizational and financial capacity of the parties informed their canvassing strategies. Out of some 3,300 candidates, the Union Solidarity and Development Party and the National Unity Party fielded the largest number (1,100 and 990, respectively, across all constituencies), whereas other parties fielded much smaller numbers and only in some constituencies.

7. On 7 November, three elections were held simultaneously: for the People's Assembly (lower house) and the Nationalities Assembly (upper house) of the Union Assembly, and for 14 state and regional legislatures. As in 1990, the elections were organized on a first-past-the-post basis. By 17 November, the ballot count was officially published. By 7 December, the Commission announced that voter turnout was 77 per cent of Myanmar's 29 million eligible voters.

8. With 58 per cent of the total votes cast, the Union Solidarity and Development Party gained nearly 77 per cent (883 seats) of the total 1,154 elected seats in all assemblies, including 77 per cent (129 seats) in the Nationalities Assembly and 79 per cent (259 seats) in the People's Assembly. With 25 per cent of the seats in each assembly reserved for the military (*Tatmadaw*), the Union Solidarity and Development Party and the military bloc held an overwhelming majority. The remaining seats in the national legislatures were divided among 16 political parties and independents, including the National Unity Party, National Democratic Force, Shan Nationalities Democratic Party, Rakhine National Progressive Party, All Mon Region Democracy Party and Chin Progressive Party.

9. In the 14 state and regional legislatures, ethnic parties fared relatively better than national opposition parties. While the Union Solidarity and Development Party won almost all elected seats in most central regions, in ethnic areas the party won sizeable blocs but had a majority only in Kayah State, with ethnic parties winning up to 30 per cent of seats in Chin and Rakhine States.

10. According to independent reports, polling day was generally peaceful and orderly despite irregularities. Indications are that most voters were able to cast their ballot freely and the counting in polling stations was held in most cases in front of party representatives and members of the public. At the same time, however, there were numerous reports of infringements, intimidation and coercion throughout the process. That added to concerns about the restrictive electoral framework that effectively excluded key stakeholders from the process and limited fundamental freedoms of expression, assembly and association, in addition to unequal access to State resources, media restrictions, lack of voter education, and significant constraints on candidates and parties to contest on a level playing field.

11. Some of the most serious concerns revolved around abuse of the advance voting process that appears to have swung final results away from opposition candidates to the Union Solidarity and Development Party during the vote counting.

As a result, advance ballots are estimated to have represented up to 10 per cent of votes nationwide. While official sources claim that only 4 seats were affected, independent sources reported that advance votes may have changed the outcome for as many as 64 seats.

12. On 8 November, the Chair of ASEAN issued a statement welcoming the elections as a significant step forward in the implementation of Myanmar's road map towards democracy, encouraging Myanmar to accelerate the process of national reconciliation and democratization, and to continue to work with ASEAN and the United Nations in that process.

13. On the same day, I issued a statement noting that the election was held in conditions that were insufficiently inclusive, participatory and transparent, and stressed the responsibility of the Myanmar authorities to turn the election into a new start for a credible political transition by releasing political prisoners and lifting restrictions on Daw Aung San Suu Kyi. I also urged that the process of forming new institutions of government be broad-based and inclusive, and called for dialogue among all stakeholders in that regard. I stressed that the international community was looking for greater assurances that the process under way would mark a genuine departure from the status quo.

14. In June and July of 2011, several political parties announced their intention to field candidates for parliamentary by-elections scheduled for November 2011. The Group of Democratic Party Friends, including the National Democratic Force and Shan Nationalities Democratic Party, announced plans to field candidates for 40 constituencies, while the Union Solidarity and Development Party announced it would contest all 45 constituencies. During the same period, applications were submitted for the registration of new political parties. On 20 July, the Election Commission permitted the registration of the People's Democratic Party, bringing the total number of officially registered political parties to 38.

Release of Daw Aung San Suu Kyi

15. On 13 November 2010, Daw Aung San Suu Kyi was released from house arrest by executive order of the Chair of the State Peace and Development Council, Senior General Than Shwe. In a statement, I welcomed the release, noting that her dignity and courage in the face of injustice was an inspiration to many people around the world, and expressed deep regret that she had effectively been excluded from participating in the elections. I made clear that no further restrictions should be placed on her, and again urged the authorities to release all remaining political prisoners.

16. On 22 November, the Supreme Court in Nay Pyi Taw rejected an appeal lodged by the National League for Democracy against its dissolution pursuant to the announcement by the Election Commission.

Government formation

17. On 31 January, the first session of the Union Assembly was convened, bringing the 2008 Constitution into force. Former third-ranking member of the State Peace and Development Council, Shwe Mann, was elected as Speaker of the

People's Assembly, and former Minister for Culture, Khin Aung Myint, as Speaker of the Nationalities Assembly, in which position he also serves as Speaker of the Union Assembly. All speaker and deputy speaker positions went to the Union Solidarity and Development Party.

18. On 4 February, the Presidential Electoral College (comprising all members of the Union Assembly) elected former State Peace and Development Council Prime Minister, Thein Sein, as President, with former Council Secretary-1, Tin Aung Myint Oo, as first Vice-President, and prominent ethnic Shan figure, Mauk Kham, as second Vice-President. All three are elected representatives of the Union Solidarity and Development Party. Through a statement, I noted that the convening of Parliament and election of the Presidency represented an important opportunity for Myanmar to move away from the status quo.

19. On 30 March, the State Peace and Development Council was officially dissolved upon transferring power to the new Government. Senior General Than Shwe and Vice-Senior General Maung Aye officially retired from their formal positions. Through a statement, I took note of the transfer of power to the new Government, and stressed that the Myanmar authorities had an opportunity and an obligation to their people to demonstrate that this change would mark the beginning of a substantive and genuine move away from almost 50 years of direct military rule. I also urged the authorities to engage in a broadly inclusive dialogue on the necessary reforms for a credible and effective system of government.

20. Although nominally civilian, the new Government is dominated by recently retired military officers. Out of 30 ministers, there are 3 serving military officers appointed by the Commander-in-Chief to security portfolios; 10 ministers and 5 deputy ministers from the previous cabinet; 4 recently-retired senior military officers appointed to technical ministries; and 8 newly appointed technocrats, including 3 with a military background but also extensive experience in their portfolio, such as the Minister for Foreign Affairs, Wunna Maung Lwin.

21. New legislative and executive structures were also introduced in each of the seven regions and seven states. Within the states concerned, six self-administered areas were delineated for certain ethnic groups. All local chief ministers, appointed by the President, were from the Union Solidarity and Development Party, except in Kayin State, which is headed by a military legislator. Within local governments, ethnic opposition politicians were appointed to social and other portfolios. In June and July, local governments were reshuffled to realign ministerial portfolios at the central and local levels.

22. Changes within the military leadership included the new Commander-in-Chief, General Min Aung Hlaing. The abolition of army-controlled supra-ministerial policy committees and the introduction of local governments were among the changes reflecting a potential curtailment of the military's role in governance, consistent with the Constitution. The military is not directly represented on the Financial Commission, which sets the military budget, although the Commander-in-Chief reportedly controls a "special fund" without public oversight.

23. During their first session, held from 31 January to 30 March, both the upper and lower houses dealt with nominations to key executive and judicial posts and with substantive questions and proposals. For the first time, Government ministers appeared before Parliament to answer questions. Parliamentary debates were

reported in the official media, including on sensitive topics not openly discussed before, such as land tenure rights, censorship, compulsory military service legislation, civil service recruitment of ethnic minorities, ethnic minority language education, population relocations, the question of a ceasefire in Kayin State, the question of amnesty for Shan political prisoners, identification cards for Muslim residents of Northern Rakhine State and private sector monopolies.

24. In accordance with the Constitution, Parliament formed various committees, such as the Bill Committee, the Public Accounts Committee, the Rights Committee and the Government Guarantees, Pledges and Undertakings Vetting Committee. Opposition members make up one third of the membership of all of the committees, including as Chair of one committee, while the rest are from the Union Solidarity and Development Party. No military appointees were included. On 1 August, an official announcement was made that the second regular session of Parliament would be convened on 22 August 2011.

Reform agenda

25. In his inaugural speeches to Parliament on 30 March, to members of Government on 31 March, and to the Central Committee for Progress of Border Areas and National Races on 23 April, President Thein Sein outlined initial indicators of the new Government's policy direction in key priority areas during his five-year term. It was the first time in recent history that the Government had set out a public policy agenda and assessment of many of the problems facing the country.

26. In a departure from previous official discourse, the President explicitly recognized that there were many individuals and unlawful organizations inside and outside the nation that did not accept the road map and the Constitution. The President stressed that without national unity, the country where more than 100 national races lived together, could not enjoy peace and stability, which was essential for building a developed nation. While warning against any actions taken outside the constitutional framework, he undertook to convince ethnic groups of the Government's goodwill and to work together with "good-hearted political forces" for peace, stability and development, including by keeping the "peace door" open and welcoming those who held different views to stand for elections.

27. Other key policy themes and priorities on which the President promised reforms included the adoption of an open market economy, improvement of socio-economic conditions and reduction of gaps between rural and urban areas; the protection of social and economic rights; the development of infrastructure and the delivery of basic services, including in ethnic areas; the improvement of health and education standards; the protection of fundamental human rights and freedoms; respect for the rule of law and an independent and transparent judiciary; respect for the role of the media; good governance and public scrutiny of executive and legislative bodies; institutional capacity-building and human resource development; "clean", responsible, accountable and inclusive government; and decentralization.

28. Specifically, the President announced a 10-point legislative reform agenda aimed at: ensuring the conformity of existing laws with the Constitution; safeguarding fundamental rights; increasing salaries of service personnel and pensions; safeguarding the rights of farmers; creating jobs and safeguarding labour rights; overhauling public health care and social security; raising education and

health standards; amending journalism laws; promoting environmental conservation; and enhancing natural disaster response.

National dialogue and reconciliation

29. In a statement broadcast to the World Economic Forum in Davos, Switzerland on 28 January, Daw Aung San Suu Kyi underscored the need for national reconciliation, political stability and economic growth grounded in human resource development, as basic requirements of good governance. She called for investments in Myanmar to put a premium on respect for the law, environmental and social factors, labour rights and job creation. She called for economic policies linked to human development and capacity-building; innovation and diversification of investments in technology and infrastructure; entrepreneurial and microcredit opportunities to fight poverty; health prevention measures; environmentally and socially responsible development; and legal reform and the rule of law.

30. On 8 February, the National League for Democracy issued a review of sanctions against Myanmar, which concluded that economic conditions were not affected by sanctions to any notable degree; that the best way to remove sanctions would be to deal effectively with violations of human rights and the lack of democratic practices; and that, meanwhile, the economic hardships of the people would be ameliorated if foreign investments observed guidelines aimed at conserving the environment, protecting labour rights and promoting civil society. The party also called for discussions with concerned Member States to reach an agreement on when, how and under what circumstances sanctions might be modified, noting that a study by respected professionals on the effects of sanctions would be useful.

31. On 11 March, the Group of Democratic Party Friends, formed by the 10 largest democratic and ethnic political parties in Parliament, issued an open letter calling on the international community to recognize Myanmar's political developments, including the creation of new political space, the transition to a new generation of leaders and the election of political parties. Noting that sanctions against Myanmar, while not the prime cause of poverty, hit labour-intensive sectors, prevented job creation and denied society the benefits of increased foreign investment, the Group called for the lifting of sanctions and for increased donor funding and assistance for governance and socio-economic reform through advice and cooperation in tourism, trade and investment.

32. On 27 March, the National League for Democracy issued a statement urging the authorities to create fair political conditions by releasing all political prisoners and engaging immediately in politically meaningful dialogue to eliminate misunderstandings between democratic forces and the *Tatmadaw*.

33. On 25 April, the National League for Democracy issued a statement welcoming the President's commitment to the rule of law. Referring to individual cases contravening judicial principles, the statement called for further guidelines to be issued in order to establish the rule of law, including through due process and fair trial in the administration of justice.

34. On 16 May, it was announced that President Thein Sein had granted an amnesty on humanitarian grounds and out of consideration for the families of the

inmates by commuting death sentences to life sentences, and commuting other prison terms by one year. As a result, more than 100 political prisoners, including 23 members of the National League for Democracy, were reported to have been released out of an estimated 2,000 political prisoners in detention.

35. In an open letter dated 20 May, the 10 political parties forming the Group of Democratic Party Friends welcomed the amnesty as a goodwill gesture, but stated that it fell too short to contribute meaningfully to national reconciliation, as it did not apply to political prisoners serving lengthy sentences. Noting that Myanmar's transition under an elected Government required the building of trust among political forces as a crucial step to install democratic change, the Group called for the release of political prisoners and the return of exiled dissidents.

36. On 28 June, the Ministry of Home Affairs warned Daw Aung San Suu Kyi and the Chair of the National League for Democracy, Aung Shwe, that since the party had been officially dissolved, its activities were illegal and should stop as they could harm peace, stability and the rule of law and could create more difficulties for national reconciliation. The Ministry informed that, in order to engage in social affairs, an application should be made to form a social organization. State media similarly warned the party to stop its activities in order to avert unnecessary consequences, noting that its leaders had the right to form a political party and should try to stand for elections as a legal party. It also warned of security concerns around any planned visits by Daw Aung San Suu Kyi outside Yangon, but noted that she would not be restricted from travelling.

37. On 29 June, the National League for Democracy publicly responded that it remained a legally registered political party that did not infringe the 2008 Constitution and that it therefore could neither dissolve nor accept court rejections of its appeals on the matter. Out of common interest in national reconciliation, the party requested a meeting with the Minister for Home Affairs to discuss the establishment of the rule of law.

38. From 4 to 7 July, Daw Aun San Suu Kyi travelled without incident to Bagan and surrounding areas on a four-day private trip in what was the first time she had travelled outside Yangon since the Depayin incident of May 2003.

39. In an encouraging development, on 19 July, at the Government's invitation, Daw Aung San Suu Kyi attended for the first time in nine years official ceremonies on the occasion of "Martyrs Day" in Yangon. Separately, she and the National League for Democracy led the largest public march since the demonstrations that took place in 2007. The party reiterated its commitment to solving political problems through political means and called upon the authorities to create fair political conditions through meaningful dialogue and the release of political prisoners.

40. On 25 July, a meeting was held at the invitation of the Government between the Minister for Social Welfare, Aung Kyi, and Daw Aung San Suu Kyi, marking the first talks between her and the Government since her release. In a joint statement, both said that the meeting was positive, expressed satisfaction with the results and agreed to meet again at an appropriate time. They discussed possibilities for cooperation for the benefit of the people, including matters relating to the rule of law and the eradication of misunderstandings. Through a statement, I welcomed and encouraged the efforts to build mutual understanding through genuine dialogue. I

further reiterated my call for the Government to consider early action for the release of political prisoners.

41. During the reporting period, tensions continued with both ceasefire and non-ceasefire armed ethnic groups, including Kachin, Karen, Shan and Wa forces. The most serious tensions involved armed clashes starting on 9 June in Kachin and Northern Shan states between the *Tatmadaw* and the Kachin Independence Army, with the risk of an escalation into large-scale violence and open fighting for the first time since the signing of a ceasefire agreement in 1994. The conflict reportedly resulted in casualties on both sides, as well as human rights violations, displacement of civilian population and the destruction of infrastructure.

42. On 24 June, the Speaker of the People's Assembly reported that skirmishes between the *Tatmadaw* and the Kachin Independence Army had caused panic locally and nationally, but that coordinated efforts had made it possible to bring the situation under control and, as a result, peace and stability in the region had been almost fully restored. Since the outbreak of fighting, several rounds of negotiations were reported to have been held, involving central and local authorities and representatives of the Union Solidarity and Development Party, the Kachin Independence Army and the Kachin Independence Organization. In an open letter dated 28 July, Daw Aung San Suu Kyi called for any tensions involving armed ethnic groups to be resolved through political negotiations in the interest of national unity and expressed her support for ongoing efforts to that end.

43. Since 21 June, the Office of the United Nations Resident Coordinator has met with representatives of the Ministry of Social Welfare, Relief and Resettlement to express concern about the humanitarian situation in Kachin State, especially for civilians, to request and share information on reported population displacements and other concerns, to request access to perform humanitarian assessments and deliver assistance, and to discuss humanitarian corridors and safe passage options.

Human rights mechanisms

44. On 27 January 2011, Myanmar underwent its first universal periodic review by the Human Rights Council. Out of 180 recommendations made during the course of the review, Myanmar rejected 70, accepted 64 and agreed to study a further 46.

45. On 7 March, the Special Rapporteur submitted his fourth report (A/HRC/16/59) to the Human Rights Council. On 25 March, the Council adopted resolution 16/24, in which, inter alia, the Council expressed regret that no visit of the Special Rapporteur had been allowed since February 2010 and extended his mandate by one year. The Council also expressed its strong support for the good offices mission, and called on the Government to ensure full cooperation with my Special Adviser and the Special Rapporteur. On 22 July, the Special Rapporteur was invited to visit Myanmar in August.

46. On 1 and 2 July, for the first time in six years, the International Committee of the Red Cross was permitted to resume visits to inspect prison conditions in three different localities.

Socio-economic development

47. On 27 June, the Government and the Economic and Social Commission for Asia and the Pacific (ESCAP) jointly organized the Third Development Partnership Forum in Nay Pyi Taw. Opened by Vice-President Mauk Kham and co-chaired by the Executive Secretary of ESCAP and the Minister for National Planning and Economic Development, the broad-based conference focused on policies for reviving Myanmar's rice economy as the most critical part of the agricultural sector, affecting 70 per cent of the population. Government policymakers engaged in dialogue with representatives of civil society, the private sector and local and international experts. Proposals were recommended for consolidation by the Government as action plans. The Forum built on the Second Development Partnership Forum, held in 2009, and on a national workshop on poverty alleviation and rural development, held in May 2010. The Executive Secretary of ESCAP met with Daw Aung San Suu Kyi at the conclusion of the Forum.

III. Content and outcome of discussions

48. In a meeting with the Ministers for Foreign Affairs of ASEAN, held in New York on 24 September, I emphasized the critical need for free, fair and inclusive elections in order to advance stability and development in Myanmar. I stressed that failure to meet those expectations could undermine the credibility of the process, which could reflect on the collective values and principles of ASEAN. I called on ASEAN member States to encourage Myanmar to engage more closely with my good offices.

49. In my meeting with former Minister for Foreign Affairs Nyan Win in New York on 26 September, I stressed that it was not too late for the Government to make goodwill gestures to enhance the credibility of the elections, including by allowing Daw Aung San Suu Kyi the right to vote and by releasing as many political prisoners as possible. The Minister suggested that the political situation would be totally changed after the elections. I stressed the need for the Government and its successor to continue to engage actively with my good offices and Special Adviser.

50. At the third ASEAN-United Nations summit in Hanoi on 29 October, I briefed ASEAN leaders on my good offices, stressing the need for a credible democratic transition and national reconciliation, including free, fair and inclusive elections. In my bilateral meeting with Prime Minister Thein Sein on 30 October, I stated that the United Nations and the international community were not satisfied with arrangements for elections and reiterated my call for release of political detainees, including Daw Aung San Suu Kyi, prior to elections. In addition to a credible ballot, I stressed the importance of transparent election results and an inclusive process of government formation. The Prime Minister confirmed that Senior General Than Shwe and Vice-Senior General Maung Aye would not contest the elections. He indicated that amnesties would continue to be granted. Stressing that the new Government would continue to cooperate with my good offices, he called for closer international engagement with Myanmar in the socio-economic and political fields.

51. In my telephone discussion with Daw Aung San Suu Kyi on 18 November, we agreed on the need for all political prisoners to be released as a matter of priority. I told Daw Aung San Suu Kyi that I was encouraged by the spirit of reconciliation

from her statements and appeals for dialogue and compromise following her release, and that I would continue to encourage all parties to work together in the national interest. Daw Aung San Suu Kyi expressed her appreciation for the important role of the United Nations in Myanmar, and for my continuous efforts on her behalf. She expressed support for an early visit by my Special Adviser and her desire to engage closely. I reiterated my commitment to continue to uphold the cause of human rights, peace and democracy in Myanmar.

52. From 27 to 28 November, my Special Adviser visited Myanmar at the invitation of the Government. This marked the first direct engagement in Myanmar with my good offices since my visit in July 2009. For the first time, the United Nations had more flexibility to organize its programme. My Special Adviser met with the former Minister for Foreign Affairs, Nyan Win, senior officials from the Ministries of Planning and Border Affairs, the Election Commission, and the Union Solidarity and Development Party Secretary General, Htay Oo. For the first time, my Special Adviser met Daw Aung San Suu Kyi and members of the Central Executive Committee of the National League for Democracy at her residence. He also met on United Nations premises with representatives of the political parties that had won seats in the elections and with civil society leaders.

53. In response to the concerns corroborated by the political parties and civil society regarding the elections, the Government and the Election Commission noted that no official complaints had been filed and that electoral laws had included procedures for filing such complaints. They stressed that there was no ban on the registration of new political parties. Irrespective of formal complaints, my Special Adviser underlined that failure to address electoral concerns quickly and transparently would leave the credibility of the process in doubt. He also stressed the need to establish good electoral practice, starting with by-elections.

54. With regard to the broader political process, my Special Adviser emphasized that the political forces that had decided not to participate in the election should not be excluded from dialogue if any transition were to succeed, stressing that they would continue to form a critical part of the political landscape. With the elections over, he emphasized that the case for dialogue and reconciliation was even stronger than before and that the authorities should be in a better position to reach out to their critics. Interlocutors all accepted the need for continued efforts at national reconciliation but differed in their expectations and on the way forward.

55. Government interlocutors, as well as the Union Solidarity and Development Party and the National Unity Party, expressed confidence in the continued implementation of the road map, stressing that all parties had the opportunity to participate in the elections and that national reconciliation should continue to unfold within the established framework of the Constitution. They called on the international community to recognize the progress made in that context, including through the removal of sanctions. Although the authorities remained non-committal, they did not reject outright calls for dialogue, an inclusive process of government formation, and the release of political prisoners.

56. Daw Aung San Suu Kyi expressed her determination to continue to work for national reconciliation based on dialogue, noting that a parody of democracy was worse than an outright dictatorship. She expressed her desire to listen to various views in order to form a more complete picture of the post-election situation. She made clear her readiness to respond to meaningful efforts by the authorities to

engage with her and the National League for Democracy. She did not elaborate on her position regarding sanctions beyond stating the need for a detailed assessment of their impact. She conveyed her expectation that my good offices and the Special Adviser be fully engaged in promoting political dialogue, human rights and the rule of law. She also indicated her interest in engaging closely with the United Nations Development Programme (UNDP) and other partners.

57. Despite their disappointment and frustration with the election, representatives of democratic and ethnic political parties viewed their toehold in the process as a legitimate platform from which to build on the gains they had made by maximizing what they described as "new political space" within the new constitutional framework. While conscious of the challenges they would continue to face given their limited representation, they pointed to potential cooperation and engagement among themselves and with others, including the Union Solidarity and Development Party.

58. All interlocutors stressed the need to address the development and humanitarian needs of the country and their expectation of an increased role for the United Nations in that regard. According to the authorities and Union Solidarity and Development Party, Myanmar needed to develop economically in order to ensure stability and democratic practices. The former Minister for Foreign Affairs reiterated Myanmar's commitment to cooperate with the United Nations at the technical and policy levels and called for greater donor assistance. Stressing that Myanmar was the only country where UNDP did not operate a normal country programme owing to restrictions imposed by its Executive Board, the Government explicitly called for the lifting of such restrictions. It gave assurances to resolve access and timely visa issuance for United Nations agencies.

59. Daw Aung San Suu Kyi welcomed her ongoing contact and interaction with the United Nations Resident Coordinator and expressed her commitment to work with the United Nations system, including on policy and operational constraints affecting humanitarian and developments activities. Consistent with their campaign platforms, most political parties identified socio-economic questions as priority agendas to address the needs of their constituencies. Civil society leaders made a strong case for all stakeholders to shift from political confrontation towards improving the country's political economy. In their view, the experience of civil society since Cyclone Nargis in 2008 showed that progress often took place via constructive engagement within existing frameworks. They stressed the need for a more nuanced understanding of existing opportunities to address the country's problems as part of a broader agenda of liberalization. Similarly, independent experts saw new opportunities for addressing issues of economic management as essential to any democratic transition, including a more transparent legislative and budgetary process.

60. Prior to returning to Myanmar, my Special Adviser met in Jakarta on 10 May with Minister for Foreign Affairs of the Government of Indonesia and Chair of ASEAN, Marty Natalegawa, to discuss the outcome of the 18th ASEAN summit, held there on 7 and 8 May, at which a proposal for Myanmar to assume the ASEAN Chair in 2014 had been considered. My Special Adviser was informed that a formal decision on the proposal had been deferred to the 19th ASEAN summit, scheduled to be held on 17 and 18 November 2011, pending a planned visit by the Chair of ASEAN to Myanmar.

61. From 11 to 13 May, my Special Adviser visited Myanmar again at the invitation of the new Government for the first time since its installation. In Nay Pyi Taw, he was received by the Minister for Foreign Affairs, Wunna Maung Lwin, and met the Ministers for Home Affairs, Social Welfare, and National Planning and Development, as well as senior officials from the Ministries of Commerce, Health and Education. He met with newly appointed presidential advisers for political, legal and economic affairs. He was also received by the Deputy Speaker of the People's Assembly, and by the Secretary-General of the Union Solidarity and Development Party. In Yangon, he met again with Daw Aung San Suu Kyi and members of the Central Executive Committee of the National League for Democracy , as well as representatives of opposition and ethnic political parties in Parliament and civil society. He also visited Bago to meet with Chief Minister and former Minister for Foreign Affairs, Nyan Win.

62. In all of his meetings, my Special Adviser emphasized the importance for the new Government to be proactive in taking concrete steps to implement the reforms announced by President Thein Sein. He stressed that gaining domestic and international confidence that Myanmar was changing would be as much a factor of leadership and policies as delivering on people's expectations. He cautioned that the longer it took to implement promised reforms, the greater the frustration.

63. My Special Adviser emphasized that the release of political prisoners remained the single most important step that could generate greater confidence in the Government's efforts, noting that it was a key demand of all democratic and ethnic political forces inside and outside the process. Although the authorities continued to deny the existence of political prisoners, my Special Adviser received indications that the question of amnesty was under consideration as a matter falling within the powers of the President to decide. This was confirmed by the amnesty announced on 16 May following the visit.

64. With regard to the political process, my Special Adviser urged the Government to reach out as broadly as possible to all stakeholders, including those not represented in Parliament. He pointed to the experience of the United Nations in other transitional contexts, which showed that the success of any reform depended in large part on the degree of support across society. He reiterated that with the completion of the road map, the new Government should be in a position to engage with its critics, including through a dedicated capacity to promote broad-based dialogue. In response, Government interlocutors recognized the need for greater outreach with society at large, expressing openness to different viewpoints and ideas. Their position, however, was that Parliament offered a legitimate level playing field for transparent debate and negotiation among elected representatives. The Minister for Foreign Affairs stressed that the door remained open for all those wishing to participate in the political process through elections. The authorities also recognized the necessity to work out peaceful solutions with armed ethnic groups. With reference to Daw Aung San Suu Kyi, Government interlocutors pointed to the fact that her release was unconditional and suggested that they were waiting to see how she would respond to the President's reform agenda.

65. With regard to the electoral process, my Special Adviser urged the authorities to learn lessons from the shortcomings of the 2010 elections in order to enhance the credibility of any future ballots. He noted that the by-elections presented a first opportunity to ensure a more inclusive, participatory and transparent process. The

authorities pointed to the fact that Parliament had appointed a new Electoral Commission.

66. With regard to human rights, my Special Adviser urged the Government to cooperate actively with United Nations human rights mechanisms, including the Special Rapporteur, in order to address outstanding concerns about ongoing reports of human rights violations as well as to strengthen governance capacity, including training, institutional reform, and the rule of law. The Ministers for Foreign and Home Affairs both noted that the international response to Myanmar's universal periodic review was encouraging, and gave assurances that the Government was in the process of implementing recommendations made as part of the review.

67. With regard to humanitarian and development assistance, my Special Adviser stressed the need for Myanmar to respond to overtures by the donor community and to build on the efforts of ESCAP, UNDP and other partners. The authorities agreed to collaborate more closely with the United Nations system, including in the areas of health, education and capacity-building. At the same time, they stressed the need to address three specific concerns regarding "unfair treatment" by: (a) lifting unilateral sanctions against Myanmar; (b) increasing development assistance; and (c) lifting restrictions on the UNDP country programme.

68. My Special Adviser further observed that the Government's commitment to reform offered an opportunity for enhancing mutual understanding between Myanmar and the international community, which was particularly relevant in the context of Myanmar's proposal to assume the Chair of ASEAN in 2014. He encouraged the authorities to reach out to the international community and to engage more openly and regularly with my good offices. To that end, he extended on my behalf an invitation to the Minister for Foreign Affairs to meet with the Group of Friends in New York and renewed an offer to have a discreet political presence in Myanmar in support of the good offices mission.

69. Interlocutors from the Government and the Union Solidarity and Development Party emphasized that Myanmar was only at the beginning of its political transition and that its new decentralized framework was still in the process of being organized. While non-committal to any suggestions, they stressed the Government's determination to accelerate the transition and implement reforms. They made clear their expectation of greater international recognition for having completed the road map in an orderly manner, stressing that the time had come for the international community to reconsider its approach towards Myanmar in a more constructive way. At the same time, they recognized the expectations of the United Nations and the international community to see forward movement on key outstanding concerns.

70. Daw Aung San Suu Kyi stated that she and the National League for Democracy did not want to take a negative attitude, but that they remained extremely cautious until there was evidence of meaningful change. In her assessment, the situation had not changed profoundly because the Government was driving for legitimacy through symbols rather than actions. Noting that all three branches of the Government were controlled by the same political party, she expressed concern at the Government's propensity to fill the political space to the exclusion of others. She stressed that there was no reason for further delaying the release of political prisoners or implementing overdue reforms. She observed that any positive developments should be measured against outstanding concerns, including the fact that the Special Rapporteur had not yet been invited back to

Myanmar. She reiterated her readiness to respond to any genuine effort by the Government to engage with her and the National League for Democracy.

71. Daw Aung San Suu Kyi and members of the Central Executive Committee of the National League for Democracy noted that they had exhausted legal appeals against the official dissolution of their party, but that they would seek to maintain its existence through the Human Rights Council. They registered their endorsement of the latest resolution of the Human Rights Council on Myanmar. They indicated that the party was not currently prepared to endorse participation in elections within the existing framework. They expressed satisfaction, however, at the expansion of the party's social network and activities, and called for cooperation from the authorities in that regard. Daw Aung San Suu Kyi again welcomed her ongoing contact and interaction with the United Nations system, including on the restrictions affecting humanitarian and development activities. She reiterated her appreciation for my good offices and her expectation that my Special Adviser would be fully engaged.

72. Most political parties and civil society organizations took a cautious "wait and see" attitude towards the Government's capacity to deliver reforms, but welcomed the President's agenda and cautioned that the new Government should not be judged too soon. Of greatest significance to them was the Government's openness to hear different opinions, including through the appointment of independent advisers. They shared the view that, whereas the previous system essentially had one focal point of power, the elections had opened new political space for multiple actors, parties, institutions and agendas to influence governance. They expressed their determination to contribute to reforms.

73. While political parties shared mixed experiences of parliamentary procedures, they expressed a sense of empowerment to engage in political activity. Most called for amnesty for political prisoners, with some also calling for Myanmar's expatriate community to be welcomed back. Some suggested that the Government organize a "union convention" as a broad-based platform for addressing national challenges. Several ethnic parties saw decentralization as key to ending armed conflict, while stressing the urgent need to tackle outstanding challenges in border areas. Most registered their position that socio-economic issues had become priority agendas for the electorate, echoing the Government's calls for greater development assistance and the lifting of sanctions.

74. Civil society leaders welcomed what they described as "new governance", whereby authorities set benchmarks for state-building, and "agents of change" had a framework and space to work in. Noting that reforms could enable more stakeholders to partake in reconciliation, they saw their role as facilitating relations between communities and the Government. They pointed to recent positive changes, including the lifting of military checkpoints in some areas; the relaxation of media restrictions and censorship; the transfer of import-export licensing to civilian authority; new investment and environmental laws; the abolition of trade monopolies; the development of a poverty-reduction strategy; and Government consultations with business and civil society.

75. From 27 to 30 June, as a follow-up to my Special Adviser's visit and on the margins of the Third Development Partnership Forum, the Office of my Special Adviser for the first time had the opportunity to engage at the working level with a range of domestic interlocutors in Nay Pyi Taw and Yangon, including presidential advisers and civil society representatives.

76. On 29 July, I spoke by telephone with the Minister for Foreign Affairs, Wunna Maung Lwin. On 27 July, my Special Adviser spoke by telephone with Daw Aung San Suu Kyi. The calls were intended to convey the expectations of the United Nations that, in building on recent developments, efforts should be intensified in order to address outstanding issues, including the release of political prisoners, national dialogue and reconciliation, consistent with the stated objectives of the reform agenda.

IV. Observations

77. After almost 50 years of military rule, and 20 years after the most recent elections, the completion of the road map spearheaded by the State Peace and Development Council affords new opportunities for a more inclusive national discourse and political development. The transfer of power from the Council to the new Government, the resignation of Senior General Than Shwe and the release of Daw Aung San Suu Kyi offer new prospects for Myanmar to embark on the path of progress and improve its standing regionally and globally. Against the backdrop of a decades-long conflict and political deadlock, the United Nations recognizes the significance of such developments.

78. President Thein Sein declared that the time had come for Myanmar to catch up with the changing world and that there was no time to waste. Myanmar continues to face the same challenges it has faced for too long: the country's human rights, political, social, economic and humanitarian problems remain serious, deep-seated and long-standing. I therefore welcome President Thein Sein's recognition of the need for Myanmar to undertake wide-ranging political and economic reforms, and his commitment to do so in a way that would strengthen national unity.

79. The Government's stated commitments appear to resonate more closely with the needs and hopes of the people of Myanmar and correspond more closely to the concerns and expectations of the international community than in the past. I believe that this can provide the basis for more effective cooperation in implementing the objectives of the mandate entrusted to me by the General Assembly. That is all the more important if Myanmar is to overcome perceptions of it as a country in perpetual crisis and to resume its rightful place as a respected and responsible member of the international community. The real test, however, lies in the timely implementation of the Government's commitments. The United Nations would like to see Myanmar succeed in that endeavour.

80. Despite the flawed and controlled nature of the elections, the credibility of which could have been enhanced had the suggestions of the United Nations been taken, the participation of the political parties and voters signalled their readiness to take advantage of the first window of political space in 20 years. Notwithstanding the disappointment and frustration of many at the process and its outcome, it allowed for a resumption of legal political activity, which had been either banned or restricted for almost five decades. In any transitional context, the resumption of political life is a prerequisite for broad-based societal reconciliation. The multiplicity of voices and plurality of actors and agendas that have emerged are indicative of the complexity of the political environment in Myanmar.

81. As shown by the outpouring of support upon her long-awaited release, the enduring appeal of Daw Aung San Suu Kyi and the ideals she represents remain a

political reality. I am encouraged that she and her followers have been allowed to engage in public activities, including meeting visiting foreign delegations and travel outside Yangon. I expect that they will continue to be able to exercise such freedoms without restrictions. Daw Aung San Suu Kyi stands as an important figure within and beyond Myanmar, and her welfare and well-being are the subject of international attention. Any restrictions on her movements or threats to her security would cause serious concern and send the wrong signal.

82. The continued detention of political prisoners remains of deepest concern to the United Nations and the international community. It is inconsistent with the Government's commitments and initial efforts towards greater openness and respect for fundamental freedoms and the rule of law. It is also counterproductive to fostering social peace and dialogue. The detention of all remaining political prisoners will continue to overshadow and undermine any confidence in the Government's efforts. Ultimately, it would be a loss for Myanmar, since the country needs the talent of all of its people to build a better future.

83. Of equal concern are ongoing tensions and armed conflict with some armed ethnic groups. In line with the efforts over the years to uphold ceasefire agreements and with President Thein Sein's commitment to keep the "peace door" open, urgent efforts are needed by all sides to avoid the escalation of tensions and to negotiate durable solutions to outstanding political and security concerns as part of a broader national reconciliation process. Failure to do so would not only affect the communities concerned, but could also hold back the process of reform, including prospects for ethnic aspirations to be legitimately addressed within the new political structures. Myanmar cannot afford for there to be impediments to the peace and unity that are needed for its stability and development.

84. While it would be premature to assess the nature and extent of political change in Myanmar, various shifts are apparent. After two decades of closed policymaking, such shifts can and should allow for more informed, broad-based, transparent and accountable processes to guide any governance reform and democratic transition. In such processes, the relationship between military and civilian authorities will be central to any genuine departure from the status quo.

85. The question for all stakeholders is how to use opportunities within the current dispensation to advance national reconciliation. Whether recent developments can lead to greater openness and inclusiveness will depend on how all parties choose to work with each other. It is in the national interest that all extend and accept conciliatory engagement. Maximizing the limited space available is critical. Ultimately, the Government has a responsibility to ensure the broadest possible support for reforms by reaching out to all political forces, including those not represented in Parliament. In the light of the current environment, I look forward to intensifying the engagement of my good offices on an ongoing basis.

86. Whether the new Government has the capacity, willingness and support to deliver on its reform agenda remains to be seen. The international community, particularly regional and ASEAN countries, have a stake in the success of reform. The collective challenge is to enable the current process to result in a credible transition that can contribute to the country's stability and development. The promise of reforms offers a chance for better mutual understanding between Myanmar and the international community. I stand ready to explore with Myanmar and interested stakeholders, including donors and development partners, how the international community and the United Nations system may be able to encourage and support effective reforms in the interest of the people of Myanmar.